

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:23-CV-440-BO-RJ

MXR IMAGING, INC.,)
Plaintiff,)
v.)
EVOHEALTH LLC and STEVEN)
DEATON, individually and in his capacity)
as Chief Executive Officer and Owner of)
EvoHealth LLC,)
Defendants.)

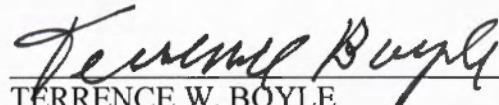
ORDER

The Court has granted plaintiff's motion for entry of default judgment against defendant EvoHealth LLC and an order has been entered. [DE 19]. Plaintiff did not, however, seek entry of default or default judgment as to defendant Steven Deaton because he has filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of North Carolina. [DE 8]. The Clerk of Court has not entered judgment as there is a party against whom the claims remain.

Where, as here, "multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. P. 54(b); *United States ex rel. Hudson v. Peerless Ins. Co.*, 374 F.2d 942, 945 (4th Cir. 1967) (cautioning against entering default judgment as to fewer than all defendants where the liability is joint and several or "closely interrelated"); *Frow v. De le Vega*, 82 U.S. 552, 554 (1872) ("But if the suit should be decided against the complainant on the merits, the bill will be dismissed as to all the defendants alike-the defaulter as well as the others.").

Plaintiff is DIRECTED to file, within fourteen (14) days of this order's entry, a supplemental memorandum addressing whether entry of judgment as to defendant EvoHealth LLC would be warranted under Fed. R. Civ. P. 54(b) and *Frow v. De le Vega* or whether some alternative course is appropriate.

SO ORDERED, this 21 day of November 2024.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE